

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STEVEN VOGT,)	
)	
Plaintiff,)	Civil Action No. 17-1407
)	
v.)	District Judge Arthur J. Schwab
)	Magistrate Judge Maureen P. Kelly
JOHN WETZEL, <i>Secretary of the Department</i>)	
<i>of Corrections (Official & Individual</i>)	Re: ECF No. 112
<i>Capacity); and JOHN/JANE DOE, Mailroom</i>)	
<i>Employee at S.C.I. Fayette (Official &</i>)	
<i>Individual Capacity),</i>)	
)	
Defendants.)	

MEMORANDUM ORDER

Pending before the Court is a Motion for Sanctions filed on behalf of Plaintiff Steven Vogt (“Plaintiff”) related to Defendant’s alleged failure to produce electronically stored information related to his remaining claims. ECF No. 112. Plaintiff requested that the Court order Defendant to retain an independent investigator to search the Pennsylvania Department of Corrections’ electronically stored information. Id.

The Motion for Sanctions was addressed at a telephone status conference on May 1, 2023. ECF No. 114. Plaintiff advised the court that documents were produced in response to requests, but he contends additional materials maybe available. Id. Counsel for Defendant reported that an additional search for records was in progress based on two search terms and a specified time frame recently identified by Plaintiff. Id. Defendant provided the results of the search and indicated that Defendant Wetzel’s email account was preserved and examined, and “there are no known emails regarding ‘the refusal of [Plaintiff’s] mail or this lawsuit.’” ECF No. 115 ¶ 15. Additionally, “based on names provided by Plaintiff, searches of emails accounts for CO I G. Turcheck and Gina

Cavalcante were made, with no results regarding Plaintiff's mail issues." Id. ¶ 16. Based on Plaintiff's current discovery requests, an additional search was conducted of the email account of the DOC liaison for litigation issues, which yielded no results. Id. ¶ 17. Also based on Plaintiff's recent request, the email account of a Deputy Attorney General was searched for emails sent or received from the DOC related to Plaintiff. Responsive emails were provided to Plaintiff on April 9, 2024. Id. ¶ 18. Finally, a search of DOC-wide emails with search terms using Plaintiff's last name and Inmate Number was requested by Plaintiff. DOC's ability to conduct the search was confirmed and is currently underway.

AND NOW, this 24th day of May 2024, based on the information provided by Defendant related to the steps undertaken to locate documents responsive to Plaintiff's discovery requests, IT IS HEREBY ORDERED that Plaintiff's Motion for Sanctions, ECF No. 112, is DENIED AS MOOT.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/ **Maureen P. Kelly**

MAUREEN P. KELLY

UNITED STATES MAGISTRATE JUDGE

cc: The Honorable Arthur J. Schwab
United States District Judge

All counsel of record via CM/ECF

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